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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,246	01/28/2004	Lakshmana Rao Chintada	101948016US1	4788
54499 7590 04/24/2007 WOODCOCK WASHBURN LLP CIRA CENTRE 12th Floor 2929 ARCH STREET PHILADELPHIA, PA 19104-2891			EXAMINER TORRES, JOSEPH D	
			ART UNIT 2112	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/24/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/767,246

Applicant(s)

CHINTADA ET AL.

Examiner

Joseph D. Torres

Art Unit

2112

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 5-15, 19, 20 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-15, 19, 20 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 03/13/2007 have been fully considered but they are not persuasive.

The Applicant contends, "Specifically, Matsumoto teaches identifying adjacent base stations which may have higher numbers of idle channels than the currently used base station where a mobile device is present, and depending on the received signal strength on those idle channels within adjacent base stations, then selectively transferring the call to an adjacent base station. This is accomplished by transmission of a "connection possible" signal on those additional idle channels".

The Examiner disagrees and asserts that a "connection possible" signal is an indication of an idle channel not being used to communicate. Step 156 in Figure 11 of Matsumoto explicitly teaches that a communication path (i.e., channel) for data is set responsive to the "connection possible" signal. Connection instructions are used in Matsumoto to indicate which of the idle channels are available for communication and are transmitted to all relevant stations and terminals to make sure relevant stations and terminals are aware of current communicating channels. Nowhere does Matsumoto teach what channels are used for transmitting connection instructions, however; connection instructions cannot be transmitted over a channel that is not connected, hence; the Applicant's contention doesn't even make sense.

The Examiner asserts Kanerva and Matsumoto teaches establishing a second data channel between the data sending unit and the data receiving unit responsive to the identifying step (Figure 2 in Kanerva teaches multiple channels are established; col. 4, lines 54-58 in Kanerva teaches that control channels are established for signaling between base and mobile stations, that is, a control channel is a second channel; Step 156 in Figure 11 of Matsumoto explicitly teaches that a communication path/channel for data is set responsive to the "connection possible" signal); and sending a request for retransmission of the lost frame over the established second data channel (a request for retransmission is a control signal; col. 4, lines 54-58 in Kanerva teaches that control channels are established for signaling between base and mobile stations), and wherein use of the second data channel allows the sliding window at the data sending unit to be advanced beyond the sequence number of the lost frame prior to receiving an acknowledgement of receipt of the lost frame from the data receiving unit (col. 1, lines 52-55 in Kanerva teaches that a "window represents a sliding sequence of successive frames that have been sent but have not yet been acknowledged (a transmission window)"; col. 6, lines 7-13 in Kanerva teaches that the window is slid forward after receiving frames 1 and 2 the window is slid forward and frames 5, 6 and 7 are buffered prior to receiving frames 3 and 4 and prior to receiving an acknowledgment thereby avoiding a unnecessary retransmissions of frames 3 and 4, if they are received at a later time out of order).

The Applicant contends, "Matsumoto also teaches release of a voice channel upon successful transfer of the call to an adjacent base station, but does not teach closing a data channel upon successful receipt and acknowledgement of the lost frame".

Kanerva teaches use of acknowledgment (307 in Figure 3 of Kanerva) of all frames including missing frames after they are recovered. A successful transfer is a call in which all frames are acknowledged including lost frames. The Applicant himself admits, "Matsumoto also teaches release of a voice channel upon successful transfer of the call to an adjacent base station"; hence Matsumoto also teaches release of a voice channel upon successful transfer of the call to an adjacent base station responsive to all frames including lost frames being successfully acknowledged.

The Examiner disagrees with the applicant and maintains all rejections of claims 5-15, 19, 20 and 32. All amendments and arguments by the applicant have been considered. It is the Examiner's conclusion that claims 5-15, 19, 20 and 32 are not patentably distinct or non-obvious over the prior art of record in view of the references, Kanerva; Mikko et al. (US 5930233 A, hereafter referred to as Kanerva) and Matsumoto; Shinji (US 5539923 A) in view of Leermakers; Rene (US 6928468 B2) as applied in the last office action, filed 10/23/2006. Therefore, the rejection is maintained.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. Claims 5, 6, 8-15, 19, 20 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanerva; Mikko et al. (US 5930233 A, hereafter referred to as Kanerva) in view of Matsumoto; Shinji (US 5539923 A).

See the Non-Final Action filed 10/23/2006 for detailed action of prior rejections.

3. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kanerva; Mikko et al. (US 5930233 A, hereafter referred to as Kanerva) and Matsumoto; Shinji (US 5539923 A) in view of Leermakers; Rene (US 6928468 B2).

See the Non-Final Action filed 10/23/2006 for detailed action of prior rejections.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

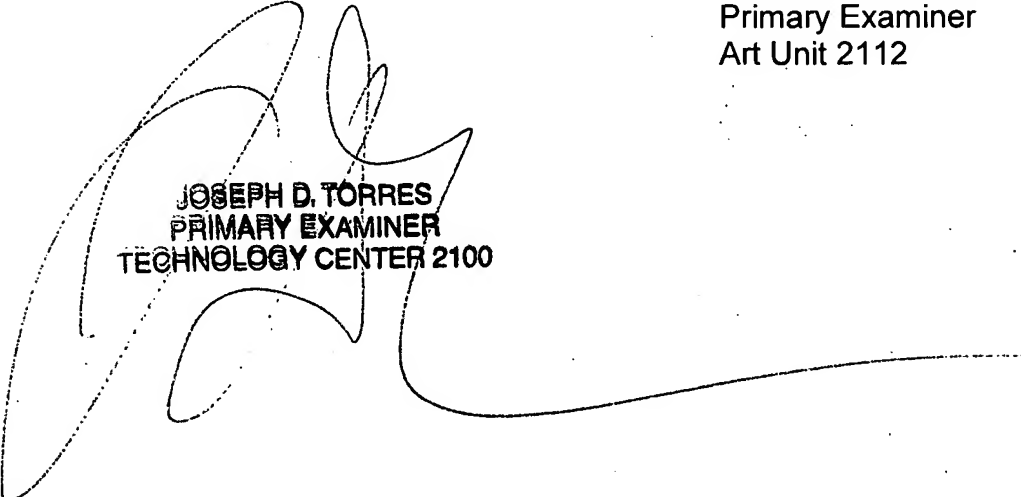
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Torres whose telephone number is (571) 272-3829. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques Louis-Jacques can be reached on (571) 272-6962. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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